

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROBERT KARL BARGER, JR.,)	
Plaintiff,)	2:12cv259
)	Electronic Filing
v.)	
)	Judge David Stewart Cercone/
)	Magistrate Judge Maureen P. Kelly
PENNSYLVANIA STATE POLICE,)	
Troop A; TROOPER MCKENZIE,)	Re: ECF No. 26
Defendants.)	

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14 **MEMORANDUM ORDER**

AND NOW, this 14 day of November, 2013, after Plaintiff, Robert Karl Barger, Jr., filed an action in the above-captioned case, and after Defendants filed a Motion to Dismiss (ECF 26) and after a Report and Recommendation (ECF 36) was filed by the United States Magistrate Judge giving the parties until October 28, 2013, to file written objections thereto, and upon consideration of the objections filed by Plaintiff, and upon independent review of the record, and upon consideration of the Magistrate Judge's Report and Recommendation (ECF 36), which is adopted as the opinion of this Court,

IT IS HEREBY ORDERED that the Motion to Dismiss submitted on behalf of Defendants (ECF 26) is GRANTED, and the Amended Complaint is dismissed without prejudice.

IT IS FURTHER ORDERED that Plaintiff has until December 16, 2013, to file a Second Amended Complaint containing sufficient facts to support his claim that he was prevented from filing his Complaint in a timely manner and that the statute of limitations for his claim of false imprisonment against Trooper McKenzie should be equitably tolled. Plaintiff is advised that his

failure to file a Second Amended Complaint curing the cited deficiencies will result in the action being dismissed.



David Stewart Cercone
United States District Judge

cc: Honorable Maureen P. Kelly
Robert A. Willig, Esquire
(Via CM/ECF Electronic Mail)

Robert Karl Barger, Jr.
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(Via First Class Mail)